



Election Observer

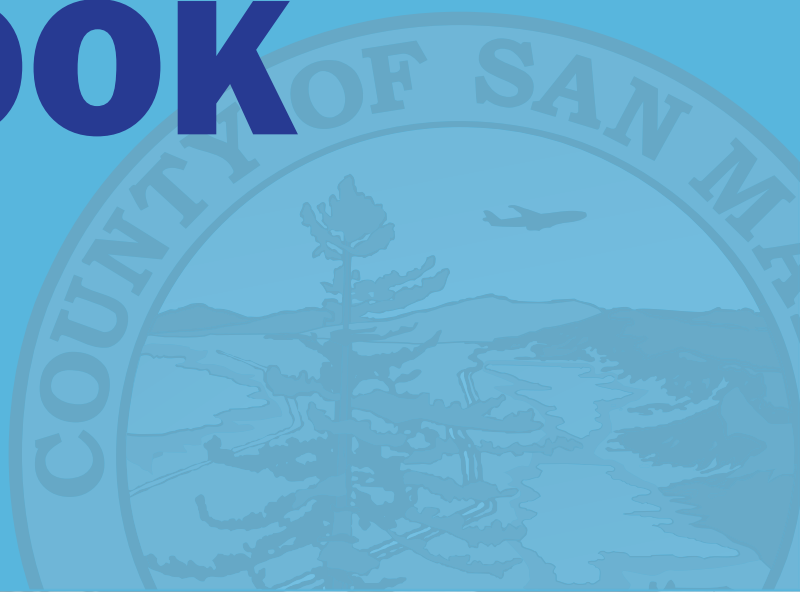
HANDBOOK

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Welcome, Election Observer:

Thank you for taking the time to be knowledgeable witnesses to the practice of democracy in San Mateo County. The Registration-Elections Office staff and I wholeheartedly endorse the principles of open and transparent elections. We respect your role in our success at being accountable for the accuracy, security, transparency, and integrity of all our election processes. From beginning to end of the election timetable, to the fullest extent allowed by law and by the logistical and security constraints required to preserve the security of our voting systems and the privacy of our voters, we invite and accommodate all observers.

We have developed this Observer Handbook to support this program. It describes the legal and practical parameters and methods for each area of operations.

We hope you find this to be a useful resource. We appreciate your interest and participation, and we welcome your feedback.

Sincerely,

A handwritten signature in black ink that reads "Mark Church".

Mark Church

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Key to Statutory References:

EC = California Elections Code
GC = California Government Code
USC = United States Code

Key to Schedule References:

Example: "E-15"
E = Election Day, plus/minus calendar days

All statutory citations are for general reference only.

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Section I.
OBSERVER GUIDELINES

Secretary of State's General Guidelines (updated 12/02/07)

Observers may:

- Observe the proceedings at the polls, including opening and closing procedures
- Obtain information from the precinct index that is posted near the entrance
- Make notes and watch all procedures
- View all activities at the central counting site on Election Day
- View the canvass of the vote activities following the election
- View mail ballot and provisional ballot processing
- Ask questions of staff or voters at the polls
- Ask questions of supervisors at the central counting site

Observers are responsible for:

- Checking in at each site, whether a polling place or the central counting site
- Wearing an identification badge
- Maintaining a professional manner while observing the election process
- Ensuring they do not interfere with the election process

Observers may not:

- Interfere in any way with the conduct of the election
- Touch any voting materials or equipment or sit at the official worktables
- Converse with voters (within 100 feet of the entrance to a polling place) regarding the casting of a vote, or speak to a voter regarding his/her qualifications to vote
- Display any election material or wear campaign badges, buttons or apparel
- Wear the uniform of a peace officer, a private guard, or security personnel
- Use cellular phones, pagers, or two-way radios inside the polling place and/or within 100 feet of the entrance of the polling place
- Talk to central counting site workers while they are processing ballots
- Touch election personnel
- Eat or drink in the polls or the central counting site
- Assist in operations at any polling place

San Mateo County's General Guidelines

Observable Activities:

Pre-election:

- Ballot creation and voting equipment preparation and testing
- Logic & Accuracy Testing of voting machines including eSlate electronic voting machines; digital scanners and tabulators to conduct central count of Vote by Mail and precinct ballots
- Precinct Supplies assembly and distribution
- Vote by Mail operations (verify signature and eligibility; prepare ballots for counting)

Election Day & Night:

- Polling place operations
- Return and processing of precinct materials at Receiving Stations and at Elections warehouses
- Vote tabulation and reporting of semi-official results

Post-Election Day Activities:

- Processing provisional ballots and Vote by Mail ballots received at polling places
- Ballot duplication
- Processing write-in ballots
- Ballot reconciliation
- Random selection of precincts for the manual recount
- Manual recount process

Check-In and Arrange Escort:

Observers must sign in at Reception, and receive a visitor's badge, which must be worn at all times while in the elections facility. All observers will be escorted by at least one staff member.

No Delay or Interruption of Work Schedule:

Scheduled operations and processes continue whether or not an observer is present.

No Touching or Interference with Staff, Equipment, or Materials:

- Observer activity is limited to witnessing whether proper procedures are followed.
- Observers may approach sufficiently close to the observed process to determine reasonably whether a challenge of the process is warranted, as further detailed in this handbook.
- Observers shall not interfere with the observed process: no touching of election-related materials, equipment or elections staff, and no direct questioning of the staff doing the work
- The number of observers may be restricted if it interferes with the observed process.

Limited Use of Electronic Equipment in Work Areas:

- Cell phones and pagers must be set to vibrate or off. No phone calls, except in lobby.
- Photographs of a process are permitted, with prior permission, but no photos may be taken of (1) voter signatures or (2) staff members (without prior consent)
- No audio recorders.

No Noise Disturbance

You may talk quietly with your escort, but please remove other discussions outside the observation area. Once the observed process has begun, disruptive conversation or comments are prohibited.

How to Pose Questions and Challenges:

Before and during the observed process, you may quietly ask questions of the escort and the process supervisor or Elections Manager, if present. You may not directly communicate with any staff member who is engaged in the observed process. Written questions or comments may be submitted to the Elections Manager throughout each process. All challenges must be lodged in the manner provided by law. If a challenge unduly impedes or interferes with the work process, challenges shall be discontinued.

Special Rules for Ballot Canvass Work Area

- Enter the ballot canvass work area ONLY during canvass operations.
- Inside the ballot canvass work area no phone calls may be sent or received and no conversations are allowed.
- Observers may get close enough to observe the information on the workstation and the reports pertaining to the workstation. All questions about content or procedures must be submitted in writing.

Section II. BALLOT CREATION

Who May Observe

The public is welcome to view this process, just like every other process that is conducted. There are no code sections or requirements governing the transparency of this process, however, ballot creation does not begin until the E-88 deadline which is the close of filing for candidates, measures, and statewide propositions, constitutional amendments and initiatives that have qualified for the ballot.

At that time, we may format, translate, and print the "ballot materials" which may include: (1) Official Ballot; (2) County Sample Ballot Pamphlet and Voter's Information Pamphlet (candidate statements); and (3) in a statewide election, the State Voter Information Guide. [EC 9081-9096]

The official ballot lists the offices, candidates, and measures that will be presented to voters, formatted according to detailed statutory specifications. [EC 301, 13000-13289] Creation of the ballot begins with associating a particular combination of contests with each precinct. This combination is called a "ballot style." Each ballot style must be formatted in English, Spanish, and Chinese versions. In partisan primary elections, additional ballot styles are required for each partisan ballot.

An additional formatting factor that affects ballot style is the order of candidates on the ballot. To avoid giving unfair advantage to a candidate, the listing order is determined by a formula based on a randomly-ordered alphabet as well as by a "rotation" formula based on the office involved. On E-82, the Secretary of State conducts a public, random drawing of letters of the alphabet. Names of statewide candidates rotate by Assembly district, Congressional candidates rotate within their districts, and State Senate and Assembly candidates follow the random alphabet but do not rotate. However, if a legislative district crosses county lines, the county elections official conducts a random drawing to determine candidate order for these offices in the respective county.

Ballot style data for every voter and precinct is collected in a database within the Hart voting system's BOSS application. BOSS, and its associated translation utility (TRANS), use this data to generate electronic ballot styles in three languages as well as audio translation files for each. The BOSS database is then locked to prevent any changes. The generated styles data is written onto secure, portable memory disks (MBBs and Audio Cards). The MBB transfers copies of the BOSS ballot style data to the (1) Hart system's BallotNow application, (2) JBC voting machine control device used at each polling place, and (3) Hart system's Tally application, which tabulates the votes.

BallotNow allows us to print paper ballots in-house. Also, BallotNow is used to capture vote data from paper ballots: the ballots are digitally scanned, imaged, reviewed, and resolved, and the votes are captured and stored on an MBB memory disk along with an audit log of BallotNow system activity.

The polling place's JBC device, in which the MBB containing ballot style data is installed, manages voting machine operations by connecting to each voting machine with an electronic cable. The poll worker uses the JBC to issue a random access code to each voter and the voter enters that code into the eSlate voting machine to display the appropriate ballot style. When the voter finishes voting and presses the "Cast Ballot" button, the eSlate captures those votes on the paper record and in several digital memory storage areas. When the polls are closed, the JBC writes all vote data – Cast Vote Records (CVRs) – from all the voting machines onto the MBB sealed inside the JBC. The MBB also captures system activity audit logs.

The Tally application reads the CVRs from the MBBs returned from the polling places and from the MBBs used at the BallotNow paper ballot scanning stations at our office. Tally counts and integrates vote totals for Vote by Mail, Early, and Election Day voting (electronic and paper ballots). After the votes are tabulated, Tally produces official reports and data exports, in PDF and HTML formats. All system operator actions are reported in a real-time audit log.

Section III.
GENERAL VOTING EQUIPMENT PREPARATION AND TESTING

Notice

Before preparing a voting machine for any general election, the election official shall mail written notice to the chairperson of the county central committee of at least two of the principal political parties, stating the time and place where machines will be prepared. Party representatives shall be sworn to perform faithfully their duties but shall not interfere with the officials or assume any of their duties. When a machine has been examined by the representative it shall be sealed with a numbered metal seal. The representatives shall certify to the number of machines, whether all of the counters are set at zero (000), and the number registered on the protective counter and on the seal. [ED 19320]

Who May Observe

Similar to the preparation of the Voting Equipment for any General Election, each qualified political party, any bona fide association of citizens, or a media organization may employ, and may have present at the central counting place, not more than two representatives to check and review the preparation and operation of the tabulating devices, their programming and testing, and have the representatives in attendance at any or all phases of the election. The elections official may limit the total number of representatives in attendance to no more than 10 by a manner in which each interested bona fide association of citizens or media organization has an equal opportunity to participate. [EC15004]

The Components of Voting System Security

Voting security is built on a balanced interplay of activities and safeguards that depend on technology, people, and process. The key components of this balance include:

Commitment to security, integrity, accuracy, and transparency

- Hart InterCivic, Inc. of Austin, Texas has a long history of developing information management systems to state and local governments. Hart is an honored leader in the election industry:
 - First (and only) industry member to earn ISO-9000-2000 quality certification of hardware and software system processes
 - First (and only) company to earn BS7799 certification for its information systems security
 - eSlate software was the first (and only) to be filed with the National Software Reference Library, to allow election officials to verify that the software in use matches with the one on file
 - Hart Voting System passed an independent security audit by Symantec, an security leader
 - Hart earned Samaritan Center’s “Ethics in Business Award” (www.samaritan-center.org)
- A copy of the current system software has been placed in escrow and with the SOS. The SOS may conduct random audits of the installed software to ensure that it is identical to the software certified for use [EC 19223], and counties are subject to the SOS’s Parallel Monitoring Program.

Robust and redundant security features within the voting system software and hardware

- System software has a series of redundant and auditable features to ensure accuracy and security:
 - No covert channels of access: not networked with any other system and no internet interface
 - Cryptographic and authentication components and devices control access to key functions
 - Passwords required for key functions (Start-up, Open Polls, Close Polls, Admin)
 - Electronic copies of the votes cast are saved at three locations inside the equipment and a paper audit record is also printed and sealed inside the machine; the voter is asked to read and verify the paper record before pushing the “cast ballot” button to finalize the voting selections. Each of these four records is auditable and verifiable for security and accuracy.
 - Robust and comprehensive system components automatically audit and log all activities on the system. Audit logs may be printed for records retention and review.

Secure management of memory devices, and system access codes and devices

- Secure system functions are protected with layers of security measures:
 - User IDs and permissions, encrypted passwords and PINs
 - Secure Sockets Layer (SSL) certificates for all communications between system applications
 - Physical cryptographic device (eCM key) required to access secure system functions
 - Memory devices are securely stored and tracked

Secure physical facility to house the system

- System computers, voting equipment components, and paper ballots are securely stored and logged within the Elections Division facility. Access is limited to authorized personnel and visitors. The facility is protected by security alarms and monitored by video cameras.

Secure delivery and tracking of voting equipment and materials

- Each piece of equipment is tagged with a unique barcode ID to track it electronically as it leaves and returns to the warehouse. Voting equipment, polling place supplies, paper ballots, and transit containers are secured with tamper-evident tapes or seals, and are tracked using chain of custody protocols requiring two-person integrity and a paper log throughout transit.

Pre-Election Testing

Functional Testing

The Functionality Test is performed on every unit of voting equipment between election cycles to verify that the equipment is still operating correctly and is election-ready; at minimum, it is done once a year. The unit is connected to the system and tested for full and correct functionality (e.g., every dial and button on the eSlate is operated). The test also confirms that the installed software and firmware are the correct version. Test results for each unit are logged into the inventory and tracking databases.

Logic & Accuracy Testing (L&A)

Not later than E-10, L&A testing is conducted on the entire voting system and the voting equipment that will be used in the election. L&A is designed to ensure that the hardware and software to be used in an election, including the paper ballot scan system, are working together properly, both as individual units and as a combined system. Accuracy is tested by casting and tabulating a “test deck” of marked ballots for which the results are known. We compare the known results to the test results, then resolve the cause of any discrepancies, and re-test. Ballots are selected and marked according to a “matrix” developed to encompass every ballot style and every voting combination, including place holders for over-votes, under-votes, and write-in votes. Logic testing ensures that the vote tabulation program and hardware correctly interpret, summarize, and report voters’ marks. Prior to testing, we mail written notice of the test schedule is mailed or e-mailed to the chairperson of at least two of the principal county central political committee, inviting representatives to attend the testing.

After test voting is complete on all matrices in all ballot types, the test results stored on the memory cards are read into the voting system application. Also, the paper audit trail (VBO) in the voting machine is removed and retained for documentation. Two test vote reports are generated: the cumulative report for all precincts and the precinct-by-precinct report. The predetermined results (test matrix) are compared to the cumulative test results. If any discrepancies are found, the precinct-by-precinct report is reviewed to locate the erroneous precinct result(s). These are verified against the vote records and the voting matrix for that precinct to identify the ballot, contest, and option in error. If this process does not adequately locate the error, the VBO paper trail is reviewed as a final check. All these checks and resolutions are logged. Testing and resolution is repeated until no discrepancies occur.

When a consistent error persists after eliminating all possible human error, we perform a review of the ballot *Tally* program. Some of areas for review include: ballot creation information, audit logs, matrix creation, and system-generated reports. The review may lead us to defining a new ballot/tally program for the election. Reviews may involve the vendor and/or the Secretary of State in determining the viability of the election's tally program.

Pre-definition

Pre-definition is the process performed on a precinct's voting equipment (the JBC unit) by warehouse personnel whereby the equipment is electronically assigned ("defined") to a particular precinct. A predefined JBC will display only those ballot styles that apply to that precinct's voters. The JBC unit is daisy-chained by electronic cables to the eSlate voting machines. The JBC houses the MBB data memory card which holds the ballot style data. To ensure that predefinition has been done correctly, a post-definition system report is produced and reviewed.

Section IV. VOTE BY MAIL (VBM) BALLOT PROCESSING

Notice

At least 48 hours in advance, a press release is issued to notify the public of the dates, times, and place where VBM ballots will be processed and counted. [EC 15104] Prior to processing and opening the returned VBM ballot envelopes, we make available a list of VBM voters for public inspection, from which challenges may be presented. [EC 15105, 3203]

Who May Observe

Observation of the process is open to the public. [EC 15104] Both before and after the election, observers may view the processing of VBM ballot return envelopes, and the processing and counting of VBM ballots. [EC 15104(a)] Observers shall be allowed close enough to be able to observe and challenge whether the individuals handling the ballots are following established procedures, including: (1) verifying signatures and addresses by comparing them to voter registration information; (2) duplicating accurately any damaged or defective ballots; and (3) securing VBM ballots to prevent any tampering before they are counted on Election Day. [EC 15104(d)]

Who May Challenge

Observers shall not interfere with the orderly processing of ballot return envelopes or the processing and counting of VBM ballots, including touching or handling of the ballots [EC 15104(e)]. Any member of the county grand jury, and at least one member each of the Republican county central committee, the Democratic county central committee, and of any other party with a candidate on the ballot, and any other interested organization, may observe and challenge the manner in which the VBM ballots are handled, from the processing of ballot return envelopes through the ballot counting and disposition. [EC 15104(b)]

What May Be Challenged

Observers may challenge whether those individuals handling VBM ballots are following established procedures, including: (1) verifying signatures and addresses by comparing them to voter registration information; (2) duplicating accurately any damaged or defective ballots; and (3) securing Vote by Mail ballots to prevent any tampering with them before they are counted on Election Day [EC 15104(d)]. Challenges may be made for the same reasons as those made against a voter voting at a polling place, including that: (1) the voter is not the person whose name appears on the index of registered voters; (2) the voter is not a resident of the precinct; (3) the voter is not a U.S. citizen; (4) the voter has voted that day; or (5) the voter is presently on parole for the conviction of a felony [EC 14240]; or on the grounds that the ballot was not received within the time provided by law or that a person is imprisoned for a conviction of a felony. [EC 15105]

How to Pose Questions and Challenges

All challenges shall be made prior to the opening of the identification envelope of the challenged VBM voter. [EC 15105] Because the voter is not present, the challenger shall have the burden of establishing extraordinary proof of the validity of the challenge at the time the challenge is made. [EC 15106] If the challenge is overruled, the envelope will be opened without defacing the affidavit printed on it or mutilating the enclosed ballot, and the numbered slip, if any, will be removed and destroyed, and the ballot will be securely stored. [EC 15107] If the challenge is allowed, the processing board will endorse the face of the envelope. A challenge slip will be placed on the challenged ballot. These challenges will then be reviewed by the Elections Official for final decision.

Processing Voted VBM Ballots

Voted ballots may be returned to the elections officials beginning on E-29, and all VBM ballots must be received—regardless of postmark—by the elections official no later than 8:00 p.m. on election.

The ballot is delivered either by mail or by hand delivery to the elections office or to any polling place in the county. [EC 3017, 3020]

Envelope Verification

Beginning on E-29, we may begin processing the return envelopes: we verify the voter's signature on the outside of the envelope and we update the voter's history file in our database to record that the voter has returned a VBM ballot in the current election. We verify the signature by comparing it to the one on the voter's affidavit of registration. [EC 3019] Only the elections official may perform this comparison. Statutes governing VBM processing is liberally construed in favor of the voter. [EC 3000] If the ballot is successfully challenged, it remains in the envelope, the basis of the challenge is noted on the envelope, and the ballot is not counted. [EC 15105, 15108]

We use two automated systems, working together, to process the unopened VBM envelopes: (1) the Pitney Bowes "Olympus II Relia-Vote" mail sorter system; and (2) the "MegaProfile" voter registration database system (by Election Systems and Software). The mail sorter is programmed with a database of the eligible voters and their registered signatures so that it can read and process the envelope's barcode (voter ID, precinct, election ID). The sorter rapidly performs several tasks: (1) out-sorts spoiled and invalidated ballots; (2) captures a raw count; (3) opens the privacy flap to expose the voter's signature (but does not open the envelope); (4) captures a digital image of the signature and batches it with other images; and (5) sorts the remaining envelopes by precinct. The batched signature images are then made available on remote computer screens for human review: the signature captured from the envelope and the signature from the voter's affidavit of registration are displayed side-by-side, four at a time, so that the elections official or elections staff member can visually compare them and accept or reject and envelope for further processing.

Because VBM ballots are tabulated by precinct, we must physically pre-sort them. [EC 15321] Signature-verified envelopes are passed through the mail sorter again to be separated into batches by precinct. Each batch is tagged with a batch sheet that lists the precinct number and batch count.

Removing the Ballots

Beginning seven business days before Election Day, we may remove the ballots from the signature-verified envelopes and prepare them to be machine-read; however, we may not access or release a vote count until the polls have closed on election night. [EC 15101]

- Envelopes are placed flat, signature side down, and ballots are removed one at a time
- Ballots are separated from the bar-coded envelopes, so the voter is no longer identifiable
- Staff manually extract and review each ballot for over-votes, under-votes, questionable markings, and possible voter intent issues. Questionable ballots are separated, logged, and the batch sheet count reconciled
- Questionable ballots undergo a second manual review by lead staff and are duplicated if necessary (e.g., damaged ballots that cannot properly pass through the system scanner)
- "Clean" ballots are staged for ballot scanning and ballot resolution.

Scanning Ballots

The voting system's BallotNow application, operating in a secure closed network, scans and captures a digital image of each voted ballot. BallotNow knows where the voting checkboxes should be because it is programmed with the ballot style data. All system and operator activities are automatically logged, for auditing purposes.

Precinct-sorted ballot batches, up to 150 ballots, are verified prior to scanning. The ballots are run through the scanner and a scan count is generated. Each scanned ballot image is displayed on the computer screen and BallotNow displays the ballot image in the Report window and highlights any under-votes, over-votes, or questionable markings, so that the operator can manual resolve them (see

below). If the scan count does not match the batch count, the scan report is reviewed, the batch is canceled, and the rejected ballots are immediately reviewed. A Scanned Ballots by Batch report is printed at the end of each day for reconciliation and auditing purposes. When all ballots are accepted and the scanned ballot count matches the batch count, a scan results report is printed. The batch of scanned ballots is placed in a storage box and secured in the VBM vault. When all ballots are accepted and the scanned ballot count matches the batch count, a scan results report is printed. The batch of scanned ballots is placed in a storage box and secured in the VBM vault.

Resolving Ballots

Resolution is the process of determining voter intent where the voter's marks or selections where there are under-votes, over-votes, write-ins, or unclear voter intent. We use Ballot Now's "Auto Resolve" automatic resolution function only for under-votes. For all resolution activity, we use two-person teams to simultaneously review the ballot image and resolve the ballot until it can be accepted and recorded. When resolutions are complete, records are saved, to be accumulated into the tabulation of other vote results after 8:00 p.m. on Election Day.

Tallying VBM Ballots

Only after all VBM ballots have been verified, resolved, and recorded, may they be counted and canvassed—in the same manner as polling place ballots. *[EC 15109]*

Section V. POLLING PLACE OPERATIONS

What Observers May Not Do

- Interfere in any way with the conduct of the election
- Go near occupied voting booths or approach any voters during the voting process
- Touch any voting materials or equipment or sit at the official worktables, or assist in operations
- Converse with voters within 100 feet of the entrance to a polling place regarding the casting of a vote, or speak to a voter regarding his/her qualifications to vote
- Directly challenge a voter (only the precinct board may do so, based on evidence presented)
- Display any election material or wear campaign badges, buttons, or apparel
- Wear the uniform of a peace officer, a private guard, or security personnel
- Use a cellular phone, pager, or other electronic device inside the polling place
- Touch election personnel
- Eat or drink inside the polling place

Complaints by Voters

Voters have the right to report any illegal or fraudulent activity at or near the polls to a local elections official or to the Secretary of State's Office. [EC 2300]

Note: Complaints alleging violations of the Help America Vote Act of 2002 (HAVA) must be notarized, but there is no such requirement for complaints based on state law violations (see Appendix D). [42 USC 15512(a)(2)(C)]

Rights of Poll Watchers and the Media

- Only poll workers and voters engaged in voting may be within the voting booth area when the polls are open. [EC 14221] Others may be in the polling place to observe the process as long as they do not interfere with the voter's right to a secret ballot or the poll worker's ability to perform their duties. Poll workers are trained how to treat poll watchers and how to expect poll watchers to treat them — and what poll watchers are allowed to do, and what they may not do.
- Poll workers are trained that voters and others who may be observing have the right to ask questions and to observe the elections process. Observers have the right to ask poll workers questions about election procedures and to receive an answer or be directed to the appropriate official for an answer. However, if persistent questioning disrupts the execution of their duties, poll workers may stop responding and direct the observers to the county elections official for all further answers.
- Poll workers are trained that people who visit polling places as part of a "get out the vote" effort for a campaigns may not engage in electioneering within 100 feet of a polling place. [EC 18370] Electioneering includes circulating a petition, soliciting a vote, or placing a sign relating to a voter's qualification. These campaign-related visitors also check the voter street index to determine if the voters they have identified as supporting their campaign have voted yet. Poll workers are trained to update the voter indexes and post such information in an accessible location once each hour to and including 6 p.m. [EC 14294]
- Media and public opinion pollsters are subject to different rules than poll watchers. Clearly identified members of the news media and pollsters may be within 25 feet of a polling place, and may speak to voters leaving the site as long as they do not interrupt voting. However, voters may not — without the voter's permission — be photographed, videotaped or filmed entering or exiting a polling place, and may not be filmed inside the polling place. [EC 18541]
- Voters may contest an election based on misconduct by a poll worker: discriminating against voters based on race, ethnicity, party affiliation, literacy, or disability; denying eligible voters the

right to cast a ballot; intentionally misinforming voters of their status; or coercing or intimidating voters.

- The precinct board shall compile a list including the name and address of each challenged voter, the grounds of the challenge, and the outcome. [EC 14252] If the board determines that persistent challenges are resulting in a delay of voting that is causing voters to forego voting because of insufficient time or fear of intimidation, the board may discontinue all challenges. [EC 14253]

Section VI.
CANVASS OF THE VOTE

Notice

Not later than E-10, we publish in a newspaper of general circulation of the date, time, and location of the central place where the canvass will occur. [EC 12109] For the manual tally, at least five days advance public notice is required of the time and place of the tally and of the time and place of the selection of the precincts to be tallied. [EC 15360]

Who May Observe

Any member of the public may observe all proceedings at the central counting place, but no person, except one employed and designated for the purpose by the elections official or his authorized deputy, shall touch any ballot container, and access to the area where electronic data processing equipment is being operated may be restricted to persons authorized by the elections official. [EC 15204] For the manual tally of paper ballots, the ballot being read and the tally sheet shall be within the clear view of the observers.

Overview of the Canvass

The canvass proceeds in phases, all of which are open to the public [EC 15301]: (1) Semi-Official Results; (2) Official Canvass; (3) One Percent Manual Tally; (4) Sealing and Disposition of Ballots; and (5) Certification and Statement of the Vote and Certificates of Election. The canvass verifies that the votes cast are correctly recorded and consistent and that there are no anomalies within the voting system. The canvass must begin not later than E+2, shall be continued daily—Saturdays, Sundays, and holidays excepted—for not less than six hours each day until completed not later than E+28. [EC 15301, 15372] California’s “Uniform Vote Counting Standards” defines the circumstances under which the marking of a ballot constitutes a vote and when a vote will or will not count for each category of voting system certified and in use in California (see Appendix B).

Phase 1: Semifinal Official Results

On election night, immediately upon the closing of the polls at 8:00 p.m. and continuing without adjournment until all precincts are accounted for, we collect, resolve, and tally all the votes cast at the polling places (electronic) and the Vote by Mail ballots received prior to Election Day. VBM ballots received on Election Day are included in the Final Official tally. [EC 15320]

Beginning at 8:05 p.m. on election night, we release the results of this tally to the public and to the Secretary of State, reported by contest and by precinct. Vote results are considered unofficial until the elections official completes the official canvass. [EC 353.5, 15150-15213, 15304]

The distribution of semi-official election results will commence at 8:05 p.m. After 8:30 p.m., results are updated every 30 minutes until all precinct counts have been reported, as follows:

Semi-Official Results Reported	Time Issued
Vote by Mail Ballots - Report #1	8:05 p.m.
Mail Ballot Precinct Results	8:30 p.m.
Universal Voting Center Results	9:00 p.m.
Live Precinct Results	9:30 p.m.
Live Precinct Results	10:00 p.m.
Live Precinct Results	10:30 p.m.

Phase 2: Official Canvass

The Official Canvass is strictly governed by the California Elections Code. (Section 15300 et seq.) The canvass shall commence no later than the Thursday following the election, shall be open to the public,

and, for state or statewide elections, shall result in a report of results to the Secretary of State. The canvass shall be continued daily, Saturdays, Sundays, and holidays excepted, for not less than six hours each day until completed. The components tasks of the official canvass are provided in the Code, and additional requirements are specified by guidelines from the Secretary of State.

In this phase, we audit and account for all ballots that were issued, voted, and those there were not used. Per EC 15302, this phase includes, but is not limited to, these tasks:

- inspect all materials and supplies returned by poll workers [EC 15201-15202, 15208]
- reconcile number of Roster signatures with number of ballots recorded on the polling place ballot statement [EC 14107, 14420]; in the event of a discrepancy, the number of ballots received from the polling place shall be reconciled with the number of ballots cast, as indicated on the ballot statement
- reconcile the number of ballots counted, spoiled, canceled, or invalidated due to identifying marks, over-votes, or as otherwise provided by statute, with the number of votes recorded, including Vote by Mail and provisional ballots, by the vote counting system
- process and count any valid Vote by Mail and provisional ballots not included in the semifinal official canvass
- count any valid write-in votes [EC 15340-15342]
- reproduce any damaged ballots, if necessary [EC 15208, 15210]
- reporting final results to the governing board and the Secretary of State, as required.

Phase 3: Provisional Ballots

At all elections, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established at the polling place upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot. The right to vote a provisional ballot must be liberally construed in favor of the voter. The voter must execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote. Any VBM voter described who is unable to surrender the voter's unvoted VBM ballot may vote a provisional ballot. Once voted, the voter's ballot is sealed in a provisional ballot envelope for return to the elections official. [EC 14310-14312]

Provisional ballots shall not be included in any semiofficial or official canvass, except upon:

- The elections official's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote; or
- A superior court in the county of the voter's residence orders it. A voter may seek the court order at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters. No court fee shall be charged to the claimant.

The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the voter's assigned precinct. The elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct.

A voter who has moved from one address to another within the same county and not reregistered to vote at that new address may vote on election date at either: (1) the polling place associated with the voter's current residence address; or (2) the office of the county elections official or other central location designated by that elections official. The voter shall be reregistered at the place of voting for future elections.

To prevent double voting, provisional ballots are not reviewed until all VBM ballots are verified and recorded. Provisional ballots are examined and verified and processed much in the same way as VBM ballots. Each ballot is reviewed and researched on the following points before being accepted for counting: (1) valid signature; (2) current county voter registration; (3) prior county voter registration; (4) current registration address versus new address; (5) whether a VBM ballot was returned; and (6) the precinct where the ballot was cast. If the provisional voter is eligible to vote, the official must then determine which contests may be voted. If all the contests on the voted ballot were open to the voter, then the ballot is processed like a VBM ballot, but if only some of the contests were open to the voter, then that eligible portion of the ballot is duplicated on a new paper ballot and the duplicate ballot is processed like a VBM ballot.

Phase 4: One Percent Manual Tally

The manual tally of a portion of the total votes cast is a means of verifying the accuracy of the automated system count. We hand count all the ballots voted in one percent—randomly selected—of the total number of precincts, plus one additional precinct for each race not included in the randomly selected group (only the individual race shall be recounted). The official has discretion to select more precincts.

Following the SOS' "Top-to-Bottom Review" of the state's voting systems in late 2007, additional manual tally requirements were announced:

- **Larger Sample for Close Races.** For any contest where the victory margin is less than one half of one percent (0.5%), the manual tally shall increase to 10% of randomly selected precincts
- **Escalation Requirements for Variances.** When variances between the semifinal official canvass results and the manual tally results are discovered, elections officials must document and disclose those variances and take steps to resolve the variances

The process is open to the public, following at least five days public notice of the time and place of the One Percent Manual Tally and of the random selection of the precincts to be included in the tally. Voting machine votes are recounted using the printed paper tape sealed inside the voting machine's VBO component, and this tape governs resolution of any discrepancy. Manual tally totals are compared to the automated system count to verify the system's accuracy. The Statement of the Vote must include a report of the recount results, including every discrepancy and its resolution. [EC 336.5, 15360]

Random Selection of the Precincts for the Manual Tally

The manual tally will be conducted in public view, open to all interested observers. The random selection of precincts shall be conducted in a publicly verifiable, random selection process. Random selection materials include: (1) Master Spreadsheet of precinct numbers; (2) Contest Spreadsheets listing precinct numbers for each contest; and (3) a publicly verifiable random selection mechanism. We use three clear, colored, 10-sided dice (red, white, and blue) to select the four-digit precinct numbers. The first digit identifies one of the five County Supervisory districts. Because we select precincts in district order, we roll only three dice: red for the second digit, white for the third; and blue for the fourth. Before rolling the dice, the presiding official announces the number of precincts in the jurisdiction and the number that will be chosen for recount. To assure themselves of the legitimacy of the materials, the observers may inspect the dice, the cup, and the box, and compare the observers' copies of the spreadsheets to the official copies.

The election official or an observer will roll all the dice together once to select each precinct. The dice will be rolled again if (1) a precinct row number chosen does not exist, or (2) the dice falls off the table or otherwise misses the box or designated location, or 3) the dice rolled replicates the numbers of a precinct that was already selected for the tally. When a roll is valid, the official will read off the digits and record and witness the precinct row number in the master spreadsheet. The official should

then identify each precinct chosen on the contest spreadsheets to keep track of the contests included. After the initial one percent has been selected, additional precincts will be chosen so as to include all contests. When the full selection is finished, the official should publicly announce the precinct row numbers, precinct numbers and whether or not the selection of that precinct was from the Master Spreadsheet or a Contest Spreadsheet.

Manual Tally Board Members

The manual tally board members are selected from elections office staff and poll workers, but no poll worker may serve on the board if the poll worker served at a precinct that has been randomly selected for the tally. To ensure accuracy, the board is kept "blind" to the results of the preliminary system count until the manual tally is completed. Any discrepancies in the two counts are investigated, reconciled and logged. The tally board supervisor rules on any changes to the system totals.

Four-person tally boards are assigned to each voting method. Team members are appointed to the Canvass Board by the Chief Elections Official, and are responsible for decision-making and documentation. Two members are permanent Elections Office employees and two may be temporary office workers or poll workers. Counting hours occur within their regularly scheduled workdays. Within the board: (1) one Reader calls out the voter's choice in a given contest (e.g., Yes, or Lincoln); (2) one Witness watches and confirms the Reader's calls and collates the ballots into groups of 10; and (3) two Tally Workers tally the called votes.

Tally Procedures (instructions as given to the Tally Boards)

- Receive list of randomly selected precincts and prepare tally sheets (grid of consecutive numbers for each contest and candidate) and Adjustment Log (to record variances with system count).
- Retrieve ballots from secure storage for each voting method: (1) for electronic votes, the VBO paper tape and the Provisional Count/No Count Report; (2) polling place paper ballots (regular and provisional); (3) VBM ballots. (Multi-card ballots are separated, and both the cards are counted.)
- Collect and count all the ballots for the given precinct
- Sort the ballots within each contest: (1) by candidate; (2) sort and separate the over-voted and the under-voted ballots and set aside (these will not be counted, but can be helpful during the tally process).
- Tally the contest:
- On the contest tally sheet, list the candidates in the order they appear on the ballot. Tally all ballots for one candidate before moving to the next candidate
- The Reader calls out the name of the candidate to be tallied.
- The Witness verifies that the Reader reads correctly and collates read ballots in groups of 10.
- The two Tally Workers mark their separate tally sheets, placing a hash mark through a number after each vote is called out. Every tenth call is marked with a different hash mark, and the two Workers will call out: "10", "20", etc. The angle of the hash mark is switched at every row. If the team gets out of synch, they go back to the last group of 10. After marking the last number, the remainder of the grid is lined and X-ed through
- Write the total in the column to the right – both in numerals and spelled out.
- Complete all candidates for the contest. The supervisor verifies the totals against the system results. Discrepancies are justified, resolved, and recorded on the Recount Tally Summary Sheet. If no changes are made, record that. If necessary, repeat the manual tally.

- When each contest is complete, draw a line through the next “candidate” row. Sign and certify the bottom of each tally sheet.
- Use multiple tally sheets as needed to capture each precinct’s contests and candidates. Number each page on the bottom right. Do not commingle the two sets of tally sheets
- Do not proceed to another precinct unless all contests are tallied and all discrepancies resolved.
- Have the supervisor review certified tally sheets and place them in a manila envelope. Once all precincts have been recounted for that contest, discrepancies will be noted on the Adjustment Log (e.g., voter’s intent clearly seen by tally board but not by system). Any ballot resulting in an adjustment will be segregated from other ballots for that precinct. The Log shall reflect: (1) manual count process; (2) results of each round of manual counting for each precinct in the sample; (3) how discrepancies were resolved; (4) details of any actions taken contrary to written protocols. The Log must be made available to the public. Tape the Summary Sheet to the front of the envelope.

Resolving or Explaining Discrepancies

To resolve discrepancies, research sources are available: Ballot Accountability Report; Polling Place and Consolidation lists; contents of Envelope #2 (Spoiled and Surrendered Ballots); Official Rosters; and provisional ballot envelopes (both Count and No Count), and Vote by Mail ballots. Under-votes, over-votes, and cancelled DRE ballots must be tracked and reported as part of the manual count process. (Spoiled ballots are not included here, because they are not electronically tallied. However, since they are re-created and then electronically tallied, the re-created ballots become part of the manual count if they come from precincts in the manual count sample.)

If a discrepancy is confirmed by the supervisor, we conduct an additional recount. If the discrepancies emerge again, election officials must take the following steps to resolve them:

- We must presume that the percentage of discrepancies found in the recount sample for a given race also exists in the remaining ballots cast in the race.
- The Supervisor calculates the discrepancy percentage for each race by comparing the total number of discrepancies found in the recount sample for the race to the total ballots cast for that race in the manual count sample.
- If the discrepancy percentage represents 10% of the margin of victory, then additional precincts must be manually counted for that race. Additional precincts must be counted in randomly sampled blocks of 5% until the total number of discrepancies presumed to exist — re-calculated using the method above — is smaller than 10% of the overall margin of victory in that race tallied electronically.
- If any discrepancy is found between manually counted VVPAT records and corresponding electronic vote counts that cannot be accounted for by some obvious mechanical problem, then all relevant VVPAT records, memory cards and devices, and DRE machines must be preserved and the Secretary of State must be notified in order to allow for a technical investigation to determine the cause of the problem.
- For multi-winner elections, the margin of victory is the difference between the candidate who had just enough votes to win a seat and the next candidate below. For example, for a race with three open seats, the margin of victory is the difference between the third and fourth place candidates.
- Prepare Discrepancy Reports to be sent to the Secretary of State.

Sealing and Disposition of Ballots

Upon completion of the canvass, ballot materials are sealed and securely stored for 22 months (federal elections) or 6 months (non-federal elections). [EC 15370, 15550-15551, 17301-17306, 17504-17505]

Certification and Statement of the Vote & Certificates of Election

The certification report details by precinct the vote tally for each candidate and contest, and includes the manual tally report. The certified statement of results is delivered to the governing board, county central party committee, and/or the Secretary of State, as required. [EC 15372-15402, 15500-15551]

Appendix A
VOTING SYSTEM REFERENCE: GLOSSARY AND SECURITY FEATURES

Audio Card	In a DAU eSlate, the PC card that contains the audio prompt recordings for an election.
Audit Report or Trail	Recorded information that allows elections officials to view the steps that occurred on the equipment included in an election to verify or reconstruct the steps followed without compromising ballot or voter secrecy.
Authentication	The verification of the identity of a person or process. In a communication system, authentication verifies that messages really come from their stated source, like the signature on a (paper) letter.
Ballot Style	One of any number of specific ballot configurations issued to the appropriate precinct. At minimum, ballot styles differ from one another in content. They may also differ in size of type, in language used, or in method of presentation (e.g., visual or audio). A ballot with a unique collection of contests to be used in the election. Every precinct's (or split precinct's) ballot is lined to one ballot style and there may be several precincts with the same ballot style. The ballot style information is carried on the MBB. A ballot style barcode is printed on the ballot.
Bar Code	A printed horizontal strip of vertical bars of varying widths, groups of which represent decimal digits. In the Hart Voting System, bar codes are required in order for paper ballots to be correctly scanned. BallotNow uses bar codes to represent a ballot page's election identifier (ID), party ID, language ID, precinct ID, sheet ID, serial number (if applied,), page number, ballot type, and duplex code.
Cast Vote Record (CVR)	An anonymous record of the contest options that a voter selected on his/her cast ballot. One Cast Vote Record is equivalent to one ballot.
Contest	A choice to be made on the ballot; a race. Contest types include offices, issues, referendums, propositions and questions.
DAU (Disabled Access Unit)	An eSlate that includes accessory components so that disabled persons can vote independently and privately. A DAU includes a module that accepts audio cards so that voters can listen to the ballot with headphones. It also has jacks for tactile input switches or "sip and puff" devices so that voters with limited mobility have alternatives to the SELECT wheel. (DAU is a Hart InterCivic trademark.)
Demonstration eSlate (Demo)	An eSlate set up for voter education purposes, to allow voters to practice using the eSlate buttons and interface (including headphones and adaptive devices, if desired) on a functioning unit that cannot record votes. A Demonstration eSlate does not require a JBC in order to display ballots because it uses a special ATA memory card that contains both ballot and audio data. Demonstration eSlates have a distinctive black body.

DRE (Direct recording electronic)	A type of voting system that records a vote electronically and does not require or permit the voter to record his or her vote directly onto a tangible ballot. All DREs certified for use in California must utilize a "voter-verifiable paper audit trail" (VVPAT) component that prints a contemporaneous paper record copy of each electronic ballot and allows each voter to confirm his or her selections before the voter casts his or her ballot. A "paper record copy" is an auditable document printed by a VVPAT that corresponds to the voter's electronic vote and lists the contests on the ballot and the voter's selections for those contests. A paper record copy is not a ballot. [EC 19251]
Early Voting	A Hart system term for votes cast on the eSlate voting device prior to election day, during the statutory period for Vote by Mail voting. Pursuant to California law, these votes are treated like Vote by Mail votes and are not counted until the polls close on election night.
Election ID	An election identification code that is unique for every election. The election ID is used internally by the software applications.
Encryption	Any procedure used in cryptography to convert plaintext into ciphertext (encrypted message) in order to prevent any but the intended recipient from reading that data.
eSlate	The DRE-type voting machine manufactured by Hart InterCivic, Inc. An electronic ballot can be viewed, voted, and recorded on this device. (eSlate is a Hart InterCivic trademark.)
Firmware	Computer programs (software) stored in read-only memory (ROM) devices embedded in the system and not capable of being altered during system operation. For purposes of applying the Standards, firmware is considered a form of software.
Flash Memory	Reprogrammable, read only memory that is used in PC cards or MBBs. Flash Memory does not require continuous electric power to operate. It is a system that can store more data and work faster than a traditional floppy disk.
Functionality Test	Testing of hardware functionality (e.g., testing to see that an eSlate button responds when pressed).
JBC (Judge's Booth Controller)	The control unit of the eSlate system, through which a poll worker distributes electronic ballots to the eSlate and DAU eSlate. (JBC and Judge's Booth Controller are Hart InterCivic trademarks.)
Jurisdiction	A precinct or group of precincts managed by a single organization.
Logic and Accuracy Test (L&A or LAT)	In the context of an election, a test to check the accuracy of a piece of voting equipment. An LAT is accomplished by feeding test ballots for which the results are already known (i.e., a "test deck") through the ballot counting system and comparing the results with the expected results. If an

error occurs (i.e., the actual test deck count does not match the expected count), then the problem is investigated and corrected, and the test is repeated.

PC Card	An information storage device that is about the size of a credit card. Similar to a USB memory stick. It is also called a "PCMCIA" card.
Precinct	A subdivision of a governmental jurisdiction (e.g., a county) for election purposes.
Pre-Definition	Pre-election configuration process by which an individual unit of polling place voting equipment (the JBC—Judge's Booth Controller) is "defined" with only the selected ballot styles and precincts that will be served by the polling place in which the JBC will be operating.
Select Wheel	Rotary wheel on the front of the voting machine that directs navigation through the ballot to desired voting choices.
Sip and Puff Tube	Voter's mouth-controlled personal voting input device that connects to the DAU eSlate to enable voting.
SSL (Secure Sockets Layer)	A protocol developed by Netscape for transmitting private documents via the Internet. SSL works by using a private key to encrypt data that is transferred over the SSL connection.
Tactile Input Switches	Also called "dual mode switches," "jelly switches," or "buddy buttons," these red and green "paddles" enable voters without fine motor control in their hands to vote without using the SELECT wheel and ENTER button on the eSlate. The red switch navigates through the ballot (like turning the SELECT wheel), and the green switch selects the option (like pressing the ENTER button).
TRANS Utility	Hart's system utility within the BOSS application, for capturing audio and textual translations of ballot text in multiple languages.
USB (Universal Serial Bus)	External peripheral interface for communication between a computer and other devices. The eCM security device connects to a USB port.
VBO (Verifiable Ballot Option) TM	Printing component locked within the eSlate, which prints a paper record of each voter's cast ballot, as recorded electronically on the MBB. The printed paper (roll of thermal paper) is removed and preserved for the required retention period, and may be used for the manual one percent tally during the canvass of the vote.

The Manufacturer

Hart InterCivic (www.hartintercivic.com) is based in Austin, TX and has been working with local and state governments in the information management sector since 1912. Hart is a leader in electronic voting and has received a number of awards and certifications in the election industry.

- Hart is the first (and only) company in the industry to attain ISO-9000-2000 quality system certification of its hardware and software processes.

- Hart is the first (and only) company in the industry to attain the BS7799 certification for its information systems security.
- The eSlate software was the first (and only) to be on file at the National Software Reference Library which gives election officials the opportunity to verify that the software used to conduct an election matches with the software on file at the library.
- Hart is the recipient of The Samaritan Center Ethics Business Award honoring those “good Samaritans” who practice the highest ethical principals in their daily business.

System Security Features

System software and firmware

- Unique user IDs and passwords are required; passwords are encrypted when stored.
- The default permission level for new users (other than the Administrator) is the least available.
- There is no “back door” user ID or password.
- All applications include audit logs identifying the user, date, time, and action.
- PCs running Hart Voting System software are never connected to the internet.
- The voting system requires definition of master, open, and close polls passwords for the voting devices.
- System allows definition of suspend and close polls times (which discourages suspending or closing polls on the voting devices before those times).
- System allows for firmware code verification of eScans, eSlates, and JBCs both before and after an election.

Polling place equipment

- All polling place equipment has firmware that captures a detailed audit log of each activity
- The JBC and each eSlate have Public and Private counters; private counters cannot be reset.
- Access Code for voters to cast a ballot on an eSlate is active for 30 minutes before expiring.
- The JBC and each eSlate records a duplicate original of each ballot cast and saved for redundant storage of vote records.
- The election signing key and the JBC signing key must match in order to operate the voting equipment.
- The JBC requires passwords in order for the user to open and close polls.
- Each unit and the MBB have internal serial numbers that are logged in the audit logs.
- The JBCs MBB access door is sealed with a security seal.
- The eSlate booth is sealed with a security seal before and after voting.
- The eSlate booth caddy is locked before and after voting.
- The Verifiable Ballot Option (VBO) printer is security-sealed into the eSlate booth
- An eSlate with VBO functionality cannot be used without a VBO printer.

Appendix B
CALIFORNIA VOTE COUNTING STANDARDS (5/18/06)

Introduction

Pursuant to Section 301 (a)(6) of the Help America Vote Act (HAVA) of 2002, the Secretary of State has developed these standards to define the circumstances under which "marking" of a ballot constitutes a vote and when a vote will or will not count for each category of voting system certified and in use in California.

Definitions

The following are practical definitions as used herein and are not the definitions provided in the California Elections Code or federal law/HAVA, but are nonetheless consistent with state and federal law.

Blank Ballot	A ballot on which the voter has made no marks in any voting position target, or one which has been marked with an unreadable marker, or one which has been consistently marked outside of the "read" area of the scanner.
Candidate	A person who is seeking nomination or election to a specified office and who either has met the legal requirements to have his/her name printed on the ballot or is eligible to have his/her name written in on the ballot and counted as the voter's choice for the contest.
Damaged Ballot	A ballot that has been torn, bent, or otherwise mutilated or rendered unreadable such that it cannot be processed by the ballot tabulating equipment designed for use with the ballot.
Duplicated Ballot	A ballot which is a true copy of the originally cast ballot. It is created when damage, improper marking or some other action/defect prevents the original ballot from being read by a ballot tabulating machine, and is used to properly process and count the votes originally cast by the voter. (EC 15210 provides the method by which a duplicate ballot must be created.)
Listed Candidate	Name appears on the ballot when the voter receives it, as opposed to a write-in candidate.
Measure	A ballot proposition, which appears on a ballot and requires voter action in order to enact or reject a proposed law.
Over-vote	Voter marks more than the maximum number of voting position targets allowed in the contest.
Punch Card Ballot	Contains voting position targets that a marking device must pierce to form a hole in order to record a voter's choice for a candidate or measure.
Under-vote	Voter marks less than the maximum number of voting position targets allowed in a contest.
Voting Position Target	Area of the ballot adjacent to each candidate or measure, or area of the ballot specifically designated to record the voter's choice for that contest. The term applies to all types of voting position targets on ballots, regardless of what form they may take, including, but not limited to, rectangle, oval, circle, square, hole punch, cross punch, slotting and open arrow.

General Standards

The following general standards shall apply in the counting of all ballots and votes, regardless of the voting system used, for both the initial count and for any recount.

- A. A ballot that is marked or signed by the voter in such a way that it can be identified from other ballots must be voided and none of its votes counted. Examples of such markings include, but are not limited to: voter signature, initials, voter name and address, voter identification number, social security number or driver's license number, messages or text, or unusual markings not related to indication of the vote choice for a contest. Generic text meant to clarify the voter's choice regarding a contest, such as the word "yes" or "no" next to a candidate's name, shall not be sufficient cause to void a ballot. If there are distinctly identifiable markings on one page of a multiple-page ballot, the entire ballot must be voided. (EC 13204, 14287, 15154, and 15208)
- B. A vote for any candidate or ballot measure shall not be rejected solely because the voter failed to follow instructions for marking the ballot. If, for any reason, it is impossible to determine the choice of the voter for any candidate or ballot measure, the vote for that candidate or ballot measure shall be considered void. (EC 19001)
- C. A mark is considered valid when it is clear that it represents the voter's choice and is the technique consistently used by the voter to indicate his or her selections. Such marks may include, but are not limited to, properly filled-in voting position targets, checkmarks, X's, circles, completed arrows, or any other clear indication of the voter's choice, such as the word "yes" next to a candidate's name or a voting position target for a ballot measure. [] Conversely, a mark crossed out by the voter, or the word "no" next to a candidate's name or a voting position target for a ballot measure shall not be considered to be a valid vote but will, instead, be deemed an indication that the voter did not choose to cast a vote for that candidate or measure.
- D. In determining the validity of a partially filled-in voting position target, the consistency of a voter's marks on the entire ballot shall be taken into consideration. A "hesitation mark" such as a dot in the voting position target shall not be considered a valid mark unless it is demonstrated that the voter consistently marked his or her ballot in such a manner.
- E. If a contest is marked with more choices than there are offices to be filled or measures that may prevail, the vote shall not be counted for that contest, but shall be counted in all other contests in which there is no over-vote and the voter's choice can be clearly determined.
- F. If a contest is marked with fewer choices than there are offices to be filled or measures that may prevail, the vote choice(s) for all otherwise properly marked candidates or measures shall be counted.
- G. Write-in votes are counted pursuant to the provisions established in EC 14420 and EC 15342.

Mark Sense (Optical Scan) Voting Systems

When optical scan technology is used to count the votes on a ballot, the provisions of this section shall apply. The following standards shall be used to determine whether there is a clear indication on the ballot that the voter has made a definite choice. The examples used in this section refer to the "voting position target" as defined in Section II of this document. The same principles demonstrated in the examples below shall apply to all types of voting position targets on optical scan ballots, regardless of what form they may take (e.g. rectangle, oval, circle, square, hole punch, cross punch, slotting, and open arrow).

- A. Standards Indicating a Valid Vote. A voter's choice shall be considered a valid vote, if the:
 - 1. Voter indicates vote choice by consistently filling inside the entire voting position target.

2. Voter indicates vote choice by consistently filling in less than the entire voting position target for all vote choices on the ballot and the ballot is processed in a manner consistent with the use procedures provided and approved for the voting system.
 3. Voter indicates vote choice by consistently placing a distinctive mark, such as (X) or (√) or (←), inside the associated voting position target for a candidate choice or ballot measure.
 4. Voter indicates vote choice by consistently placing a distinctive mark, such as (X) or (√) or (←), in the corresponding space directly above, below, or beside the associated voting position target for a candidate or ballot measure.
 5. Voter marks vote choices by encircling the entire voting position target for a candidate or ballot measure.
 6. Voter indicates voting error correction by using correction tape, strikeover, white-out or generic written note of instruction and marks another vote choice for the same contest on the ballot.
 7. Voter writes in a qualified write-in candidate's name, or a reasonable facsimile of the spelling of the name, in the designated write-in spaces directly below the list of candidates for that office and marks the associated write-in voting target position.
 8. Voter writes in a listed candidate's name in the designated write-in space and marks the associated write-in voting target position. In such cases, the vote shall be counted as a single vote for the listed candidate.
 9. Voter marks a voting target position for a listed candidate and also enters the listed candidate's name in the designated candidate write-in space. In such cases, the vote shall be counted as a single vote for the listed candidate.
 10. Voter writes in qualified write-in candidate's name, or a reasonable facsimile of the spelling of the name, on the secrecy sleeve envelope or stub and indicates the contest for which the vote is being cast, in the case of voting systems where write-in spaces appear separately from the list of candidates for an office and do not provide voting position targets.
- B. Standards Indicating an Invalid Vote. A voter's choice shall be considered an invalid vote, if the:
1. Voter uses random markings, indentations, punctures or impressions, squiggly/dimpled or crimp marks, pinholes or pinpricks on a ballot, and there is no distinctive and consistent voting pattern to clearly indicate voter choice(s).
 2. Voter indicates vote choice by filling in less than the entire voting position target, and the voter has not consistently marked the entire ballot in the same manner, making voter's choice unclear.
 3. Voter inconsistently places a mark above, below or beside the associated voting position target on a ballot, instead of inside the voting position target, and voter's choice cannot be clearly determined.
 4. Voter writes in the name of a person who has not qualified as a write-in candidate.
 5. Voter writes in a listed candidate's name in the designated write-in space and fills in the associated voting position target for a different listed candidate in the same contest.
 6. Voter writes in a candidate name that is unrecognizable/undecipherable and it cannot be determined for whom the vote is intended to be cast.
 7. Voter writes in a qualified write-in candidate's name in the designated write-in space and does not fill in the associated voting position target for the write-in candidate.

8. Voter uses pressure-sensitive stickers, rubber stamps, glued stamps, or any other device not provided for in the voting procedures for the voting systems approved by the Secretary of State to indicate the name of the voter's choice for a write-in candidate.

C. Abandoned Ballot. If a voter leaves the voting booth without casting the ballot, the precinct official shall cause the ballot to be cast without examining the ballot.

Punch Card Voting Systems

When a card reader is used to count the votes cast on a punch card ballot, the provisions of this section shall apply. The following standards shall be used to determine whether the voter has made a definite choice. [Note: Remainder of this Section V omitted from this Appendix B.]

Other Paper Voting Systems

A paper ballot shall be subject to the standards in the section applicable to the system on which it is processed (e.g., optical scan or punch card voting system). When paper ballots, or voting responses on paper other than a ballot, are counted by the hand and eye, the provisions of Section IV-Optical Scan Voting Systems shall apply.

Direct Recording Electronic (DRE) Voting Systems

DRE technology is used to cast and count the votes on a ballot; the provisions of this section shall apply. The following standards shall be used to determine whether the voter has made a definite choice.

- A. Standards Indicating a Valid Vote. A voter's choice shall be considered a valid vote, if the:
 1. Voter operates the DRE in a manner to cause an "X" or "√" or "highlight" or similar designation to display in the voting target position of the name of the candidate or measure for which the voter chooses to vote, followed by the voter activating the cast vote indicator;
 2. Voter operates the DRE in a manner to cause the name of a qualified write-in candidate to be entered in the designated write-in space, followed by the voter activating the cast vote indicator;
 3. Voter operates the DRE in a manner to cause the name of a candidate listed on the ballot to be entered in the designated write-in space, followed by the voter activating the cast vote indicator;
 4. Voter operates the DRE in a manner to cause the cast ballot indicator to be activated and has not voted for more contests or candidates than the number for which the voter is eligible to vote. Note: DRE systems prevent the casting of an invalid vote.
- B. Abandoned Ballot. If a voter leaves the voting booth without causing the ballot to be cast, the precinct official shall cause the ballot to be cast, without examining how any votes have been recorded on the machine.

Vote by Mail Voting Systems

A Vote by Mail ballot shall be subject to the standards provided in the approved use procedures for the system on which it is processed and the provisions of the Elections Code. In addition, the following standards shall also apply.

- A. Standards for Valid Vote by Mail (VBM) Ballots. A voter's choice shall be considered a valid vote, if the:
 1. Voter's signature on the returned VBM identification envelope compares with the signature on the affidavit of registration pursuant to EC 3011 and 3019. If the elections official has

compared the signature of the voter's application with the affidavit pursuant to EC 3009, the application may be used rather than the voter registration affidavit to make the signature comparison.

2. Damaged, torn, or otherwise non-processable ballot can be duplicated to exactly reflect the voter's choices and thereby enable the ballot to be processed on the system provided for that purpose. Standards for duplicating ballots are set forth in EC15210 and in the voting system use procedures.
 3. Voter prints name on the signature portion of the VBM ballot envelope, and it compares with the printed signature on the signature portion of the affidavit of voter registration. If the elections official has compared the signature of the voter's application with the affidavit pursuant to EC 3009, the application may be used rather than the affidavit to make the signature comparison.
 4. Voter uses a variation of the signature appearing of the affidavit of voter registration caused by the substitution of initials for the first or middle name, or both, and the signature compares with that on the affidavit of voter registration. If the elections official has compared the signature of the voter's application with the affidavit pursuant to EC 3009, the application may be used rather than the affidavit to make the signature comparison.
 5. Voter does not sign the VBM ballot envelope in the appropriate space, but the signature does appear elsewhere on the envelope and compares with the signature in the affidavit of voter registration. If the elections official has compared the signature of the voter's application with the affidavit pursuant to Elections Code §3009, the application may be used rather than the affidavit to make the signature comparison.
 6. Voter uses a mark on both the VBM ballot envelope and the affidavit of voter registration, and the mark compares.
 7. VBM ballot envelope is not dated, but is otherwise properly executed and is received by the elections official before the close of the polls on Election Day.
 8. Voter indicates vote choice(s) by writing the name(s) of the candidate(s) or indicating the vote(s) on the measure(s) in a letter or note, and returns it in a VBM envelope with a valid signature. If the voter's choice(s) can be determined, the ballot shall be duplicated to reflect the voter's choices and processed as if cast by the voter. (Elections Code §15210 provides the method by which a duplicate ballot must be created.)
 9. Voter, instead of using his or her official ballot, marks a sample ballot and mails it in the VBM envelope and the signature on the envelope compares with the signature on the affidavit of voter registration. If the California elections official has compared the signature of the voter's application with the affidavit pursuant to Elections Code §3009, the application may be used rather than the affidavit to make the signature comparison.
 10. Two or more ballots are returned in one VBM ballot envelope, and there are an equal number of distinct signatures on the envelope that can be attributed to eligible VBM voters and each of these signatures compares with the affidavits of voter registration. If the elections official has compared the signature of the voter's application with the affidavit pursuant to Elections Code §3009, the application may be used rather than the affidavit to make the signature comparison.
 11. Voter is a special VBM voter who is temporarily living outside of the territorial limits of the United States or the District of Columbia and transmits a voted ballot by facsimile and the ballot is submitted consistent with the provisions of EC 3103.5 and 3011.
- B. Standards for Invalid Vote by Mail Ballots. A voter's choice shall be considered an invalid vote, if the:

1. VBM ballot envelope is not signed by the voter.
2. VBM ballot envelope is signed using power of attorney.
3. VBM ballot envelope is received after the close of the polls on Election Day.
4. VBM ballot envelope is returned by a third party who is not eligible or authorized to return the voted ballot on behalf of the absent voter.
5. Voter, who is not a special VBM voter, transmits his or her voted ballot by facsimile.
6. Voter's signature on the VBM ballot envelope, when compared to the signature on the affidavit of voter registration, does not appear to be the same, including:
 - a. Voter uses a mark on the VBM envelope that it is not properly witnessed, and the affidavit of voter registration has a signature of the voter.
 - b. Voter printed his or her name on the signature portion of the VBM ballot envelope but has a written signature on the signature portion of the affidavit of voter registration.
7. VBM ballot return envelope contains two or more voted VBM ballots but there are less than an equal number of distinct signatures on the VBM envelope.

Provisional Ballots

A provisional ballot shall be subject to the standards in the section applicable to the system on which it is processed. In addition to those standards, the following standards shall also apply.

- A. Standards for Valid Provisional Ballot and Vote. A voter's choice shall be considered a valid vote, if the:
 1. Voter casts a provisional ballot and the voter's eligibility can be confirmed and the voter's choice is clearly marked, the vote shall be counted.
 2. Voter casts a provisional ballot for a precinct other than the precinct in which the voter was legally entitled to vote, all votes properly cast in contests for which the voter was legally entitled to vote will be counted. [EC 14310]
- B. Standards for Invalid Provisional Ballot and Vote. A voter's choice shall be considered an invalid vote, if the:
 1. Voter casts a provisional ballot and the voter's eligibility cannot be confirmed, the ballot shall not be counted.
 2. Voter casts a provisional ballot for a precinct other than the precinct in which the voter was legally entitled to vote, in which case all votes cast in contests for which the voter was not legally entitled to vote will not be counted. [EC 14310]

Appendix C
STATUTORY REFERENCE

All citations are to California Elections Code, unless otherwise noted.

Canvass of the Votes — Canvass Board Members

15304. In jurisdictions using a central counting place, the elections official may appoint not less than three deputies to open the envelopes or containers with the materials returned from the precincts. If, after examination, any of the materials are incomplete, ambiguous, not properly authenticated, or otherwise defective, the precinct officers may be summoned before the elections official and examined under oath to describe polling place procedures and to correct the errors or omissions.

Canvass — Vote by Mail Ballots (VBM)

15100. The provisions of this chapter apply to the processing of VBM ballots during the 29-day period before any election, during the semifinal official canvass, and during the official canvass.
15101. (a) Any jurisdiction in which VBM ballots are cast may begin to process VBM ballot return envelopes beginning 29 days before the election. Processing VBM ballot return envelopes may include verifying the voter's signature on the VBM ballot return envelope and updating voter history records. (b) Any jurisdiction having the necessary computer capability may start to process VBM ballots on the seventh business day prior to the election. Processing VBM ballots includes opening VBM ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election. All other jurisdictions shall start to process VBM ballots at 5 p.m. on the day before the election. (c) Results of any VBM ballot tabulation or count shall not be released prior to the close of the polls on the day of the election.
15102. The official shall appoint a special counting board or boards in numbers that he or she deems adequate to count the VBM ballots. The official shall provide for the forms of tally books and the distribution of the duties of the members of the canvassing board. When the tally is done by hand, there shall be no less than four persons for each office or proposition to be counted. One shall read from the ballot, the second shall keep watch for any error or improper vote, and the other two shall keep the tally.
15103. The elections official shall pay a reasonable compensation to each member of the canvassing board of VBM ballots. This compensation shall be paid out of the treasury of the agency conducting the election as other claims against it are paid.
15104. (a) The processing of VBM ballot return envelopes, and the processing and counting of VBM ballots shall be open to the public, both prior to and after the election. (b) Any member of the county grand jury, and at least one member each of the Republican county central committee, the Democratic county central committee, and of any other party with a candidate on the ballot, and any other interested organization, shall be permitted to observe and challenge the manner in which the VBM ballots are handled, from the processing of VBM ballot return envelopes through the counting and disposition of the ballots. (c) The elections official shall notify VBM voter observers and the public at least 48 hours in advance of the dates, times, and places where VBM ballots will be processed and counted. (d) VBM voter observers shall be allowed sufficiently close access to enable them to observe and challenge whether those individuals handling VBM ballots are following established procedures, including all of the following: (1) Verifying signatures and

addresses by comparing them to voter registration information; (2) Duplicating accurately any damaged or defective ballots; (3) Securing VBM ballots to prevent any tampering with them before they are counted on election day. (e) No VBM voter observer shall interfere with the orderly processing of VBM ballot return envelopes or processing and counting of VBM ballots, including touching or handling of the ballots.

15105. Prior to processing and opening the identification envelopes of absent voters, the elections official shall make available a list of absent voters for public inspection, from which challenges may be presented. Challenges may be made for the same reasons as those made against a voter voting at a polling place. In addition, a challenge may be entered on the grounds that the ballot was not received within the time provided by this code or that a person is imprisoned for a conviction of a felony. All challenges shall be made prior to the opening of the identification envelope of the challenged absent voter.
15106. Except as otherwise provided, the processing of VBM ballot return envelopes, the processing and counting of VBM ballots, and the disposition of challenges of VBM ballots shall be according to the laws now in force pertaining to the election for which they are cast. Because the voter is not present, the challenger shall have the burden of establishing extraordinary proof of the validity of the challenge at the time the challenge is made.
15107. If a challenge is overruled, the board shall open the identification envelope without defacing the affidavit printed on it or mutilating the enclosed ballot and, without viewing the ballot, remove it and destroy the numbered slip, if any remains, and store the ballots in a secure location.
15108. If a challenge is allowed, the board shall endorse on the face of the identification envelope the cause of the challenge and its action thereon.
15109. Except as otherwise provided in this chapter, the counting and canvassing of VBM ballots shall be conducted in the same manner and under the same regulations as used for ballots cast in a precinct polling place.
15110. Reports to the Secretary of State of the findings of the canvass of VBM ballots shall be made by the elections official pursuant to Chapter 3 (commencing with Section 15150) and Chapter 4 (commencing with Section 15300).
15111. The elections official shall keep an accurate list of all voters who have received and voted a VBM ballot at each election and compare this list with the roster of voters as provided in Section 15278. That list shall include the election precinct of the voter.
15112. When elections are consolidated pursuant to Division 10 (commencing with Section 10000), and only one form of ballot is used at the consolidated election, the ballots cast by absent voters shall be counted only in connection with elections to which absent voter privileges have been extended by law. Whenever the period of time within which absent voters' ballots shall be received by the elections official in order to be counted, as provided for any election by this code or any other law of this state, is different from that period of time provided for another election, and the elections are consolidated and only one form of ballot used for both elections, all absent voters' ballots issued for the consolidated election may be counted for both elections if received by the elections official within whichever period of time is longer.

Canvass — One Percent Manual Tally

15360. (a) During the official canvass of every election in which a voting system is used, the official conducting the election shall conduct a public manual tally of the ballots tabulated by those devices, including absent voters' ballots, cast in 1 percent of the precincts chosen at random by the elections official. If one percent of the precincts is less than one whole precinct, the tally shall be conducted in one precinct chosen at random by the elections

official. In addition to the 1 percent manual tally, the elections official shall, for each race not included in the initial group of precincts, count one additional precinct. The manual tally shall apply only to the race not previously counted. Additional precincts for the manual tally may be selected at the discretion of the elections official. [] (b) If VBM ballots are cast on a direct recording electronic voting system at the office of an elections official or at a satellite location of the office of an elections official pursuant to Section 3018, the official conducting the election shall either include those ballots in the manual tally conducted pursuant to subdivision (a) or conduct a public manual tally of those ballots cast on no fewer than 1 percent of all the direct recording electronic voting machines used in that election chosen at random by the elections official. [] (c) The elections official shall use either a random number generator or other method specified in regulations that shall be adopted by the Secretary of State to randomly choose the initial precincts or direct recording electronic voting machines subject to the public manual tally. [] (d) The manual tally shall be a public process, with the official conducting the election providing at least a five-day public notice of the time and place of the manual tally and of the time and place of the selection of the precincts to be tallied prior to conducting the tally and selection. [] (e) The official conducting the election shall include a report on the results of the 1 percent manual tally in the certification of the official canvass of the vote. This report shall identify any discrepancies between the machine count and the manual tally and a description of how each of these discrepancies was resolved. In resolving any discrepancy involving a vote recorded by means of a punch card voting system or by electronic or electromechanical vote tabulating devices, the voter verified paper audit trail shall govern if there is a discrepancy between it and the electronic record.

19253. (a) On a direct recording electronic voting system, the electronic record of each vote shall be considered the official record of the vote, except as provided in subdivision (b). [] (b) (1) The voter verified paper audit trail shall be considered the official paper audit record and shall be used for the required 1-percent manual tally described in Section 15360 and any full recount; (2) The voter verified paper audit trail shall govern if there is any difference between it and the electronic record during a 1-percent manual tally or full recount.

Challenging a Voter at the Polling Place

14240. (a) A person offering to vote may be orally challenged within the polling place only by a member of the precinct board upon any or all of the following grounds: (1) That the voter is not the person whose name appears on the index; (2) That the voter is not a resident of the precinct; (3) That the voter is not a citizen of the United States; (4) That the voter has voted that day; (5) That the voter is presently on parole for the conviction of a felony. [] (b) On the day of the election no person, other than a member of a precinct board or other official responsible for the conduct of the election, shall challenge or question any voter concerning the voter's qualifications to vote. [] If any member of a precinct board receives, by mail or otherwise, any document or list concerning the residence or other voting qualifications of any person or persons, with the express or implied suggestion, request, or demand that the person or persons be challenged, the board member shall first determine whether the document or list contains or is accompanied by evidence constituting probable cause to justify or substantiate a challenge. In any case, before making any use whatever of such a list or document, the member of the precinct board shall immediately contact the elections official, charged with the duty of conducting the election, and describe the contents of the document or list and the evidence, if any, received bearing on voting qualifications. The elections official shall advise the members of the precinct board as to the sufficiency of probable cause for instituting and substantiating the challenge and as to the law as herein provided, relating to hearings and procedures for challenges by members of the precinct board and determination thereof by

a precinct board. The elections official may, if necessary, designate a deputy to receive and answer inquiries from precinct board members as herein provided.

14241. A piece of mailed matter returned undelivered by the post office shall not be accepted or used as evidence upon which to initiate a challenge as to residency by any member of the precinct board unless other evidence or testimony is also presented, nor shall the mailed matter, standing alone without other evidence or testimony, be accepted as evidence by the precinct board in determining a challenge.
14242. The ground for challenge set forth in paragraph (2) of subdivision (a) of Section 14240 shall not apply to any person duly registered as a voter in any precinct in California and moving from that precinct within 14 days prior to an election.
14243. If the challenge is on the ground that the person seeking to vote is not the person whose name appears on the index, a member of the precinct board shall tender the following oath: "You do swear (or affirm) that you are the person whose name is entered on the index."
14244. If the challenge is on the ground that the person seeking to vote is not a resident of the precinct, the person challenged shall be sworn to answer questions, and after having been sworn, a member of the precinct board shall ask that person: "Are you a resident of this precinct?" If the answer to the question is "Yes," without significant qualification, no other questions shall be asked.
14245. If the challenge is on the ground that the person challenged has already cast a ballot for this election, a member of the precinct board shall tender to the person challenged this oath: "You do swear (or affirm) that you have not previously voted in this election, either by VBM ballot or at a polling place."
14246. If the challenge is on the ground either that the person challenged is not the person whose name appears on the index, or that he or she has voted that day, the challenge shall be determined in favor of the person challenged if that person takes the oath as set forth either in Section 14243 or 14245.
14247. Challenges of voters that they are not residents of the precinct or citizens of the United States shall be tried and determined by the precinct board at the time of the challenge. The precinct board may, at its discretion, also request any other person, present in the polling place to be sworn and answer questions, whom the board believes may have knowledge or information concerning the facts of the challenge.
14248. Before administering an oath to a person regarding his or her place of residence, a member of the precinct board shall read to the person challenged, the rules prescribed by Section 14249 and Article 2 (commencing with Section 2020) of Chapter 1 of Division 2.
14249. If any person challenged refuses to take the oaths tendered, or refuses to be sworn and to answer the questions concerning the matter of residence, that person shall not be allowed to vote.
14250. The precinct board, in determining the place of residence of any person, shall be governed by the rules set forth in Article 2 (commencing with Section 2020) of Chapter 1, Division 2.
14251. Any doubt in the interpretation of the law shall be resolved in favor of the challenged voter.
14252. The precinct board shall compile a list showing all of the following: (a) The name and address of each person challenged; (b) The name, address, and any other identification as a voter, of each person offering information concerning any person's qualifications to vote, or testifying pursuant to Section 14247, together with the name and address and any other identification of the person about whom the information or testimony is given; (c) The

grounds of each challenge; (d) The determination of the board upon the challenge, together with any written evidence pertaining thereto; (e) If evidence has been presented to the board requesting challenges, the evidence shall be returned to the elections official responsible for the conduct of the election.

14253. In the event that the precinct board determines that persistent challenging of voters is resulting in a delay of voting sufficient to cause voters to forego voting because of insufficient time or for fear of unwarranted intimidation, the board shall discontinue all challenges, and so note on the roster.

Criminal Interference with Voters

18370. No person, on election day, or at any time that a voter may be casting a ballot, shall, within 100 feet of a polling place or an elections official's office: (a) Circulate an initiative, referendum, recall, or nomination petition or any other petition; (b) Solicit a vote or speak to a voter on the subject of marking his or her ballot; (c) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240; (d) Do any electioneering. As used in this section, "100 feet of a polling place or an elections official's office" means a distance 100 feet from the room or rooms in which voters are signing the roster and casting ballots. Any person who violates any of the provisions of this section is guilty of a misdemeanor.
18540. (a) Every person who makes use of or threatens to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years. (b) Every person who hires or arranges for any other person to make use of or threaten to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.
18541. (a) No person shall, with the intent of dissuading another person from voting, within 100 feet of a polling place, do any of the following: (1) Solicit a vote or speak to a voter on the subject of marking his or her ballot; (2) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240; (3) Photograph, videotape, or otherwise record a voter entering or exiting a polling place; (b) Any violation of this section is punishable by imprisonment in a county jail for not more than 12 months, or in the state prison. Any person who conspires to violate this section is guilty of a felony. (c) For purposes of this section, 100 feet means a distance of 100 feet from the room or rooms in which voters are signing the roster and casting ballots.
18543. (a) Every person who knowingly challenges a person's right to vote without probable cause or on fraudulent or spurious grounds, or who engages in mass, indiscriminate, and groundless challenging of voters solely for the purpose of preventing voters from voting or to delay the process of voting, or who fraudulently advises any person that he or she is not eligible to vote or is not registered to vote when in fact that person is eligible or is registered, or who violates Section 14240, is punishable by imprisonment in the county jail for not more than 12 months or in the state prison. (b) Every person who conspires to violate subdivision (a) is guilty of a felony.

Provisional Ballots

14310. (a) At all elections, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows: (1) An election official shall advise the voter of the voter's right to cast a provisional ballot; (2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the provisional ballot, and a written affirmation regarding the voter's registration and eligibility to vote. The written instructions shall include the information set forth in subdivisions (c) and (d); (3) The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote; (b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to the elections official in accordance with the elections official's instructions. The provisional ballot envelopes specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the envelopes used for VBM ballots, and shall be completed in the same manner as VBM envelopes; (c) (1) During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast. Using the procedures that apply to the comparison of signatures on VBM ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot. (2) Provisional ballots shall not be included in any semiofficial or official canvass, except upon: (A) the elections official's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote; or (B) the order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this paragraph regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters. (3) The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official. (A) If the ballot cast by the voter contains the same candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct, the elections official shall count the votes for the entire ballot. (B) If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in his or her assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct. (d) The Secretary of State shall establish a free access system that any voter who casts a provisional ballot may access to discover whether the voter's provisional ballot was counted and, if not, the reason why it was not counted. (e) The Secretary of State may adopt appropriate regulations for purposes of ensuring the uniform application of this section. (f) This section shall apply to any absent voter described by Section 3015 who is unable to surrender his or her unvoted absent voter's ballot. (g) Any existing supply of envelopes marked "special challenged ballot" may be used until the supply is exhausted.
14311. (a) A voter who has moved from one address to another within the same county and who has not reregistered to vote at that new address may, at his or her option, vote on the day of the election at the polling place at which he or she is entitled to vote based on his or her current residence address, or at the office of the county elections official or other central location designated by that elections official. The voter shall be reregistered at the

place of voting for future elections. (b) Voters casting ballots under this section shall be required to vote by provisional ballot, as provided in Section 14310.

14312. This article shall be liberally construed in favor of the provisional voter.

15350. Provisional ballots cast pursuant to Section 14310 shall be processed and counted in accordance with the provisions outlined in Chapter 3 (commencing with Section 15100) and pursuant to the requirements of Sections 14310 and 14311.

Recounts

15620. Following completion of the official canvass, any voter may, within five days thereafter, file with the elections official responsible for conducting an election in the county wherein the recount is sought a written request for a recount of the votes cast for candidates for any office, for slates of presidential electors, or for or against any measure, provided the office, slate, or measure is not voted on statewide. The request shall specify on behalf of which candidate, slate of electors, or position on a measure (affirmative or negative) it is filed. [] If an election is conducted in more than one county, the request for the recount may be filed with the elections official of, and the recount conducted within, any or all of the affected counties. [] For the purposes of this section "completion of the canvass" shall be presumed to be that time when the elections official signs the certified statement of the results of the election except that, in the case of a city election, if a city council canvasses the returns itself and does not order the elections official to conduct the canvass as permitted by Section 10263, "completion of the canvass" shall be presumed to be that time when the governing body declares the persons elected or the measures approved or defeated.

15621. Following completion of the official canvass, any voter may, within five days beginning on the 29th day after a statewide election, file with the Secretary of State a written request for a recount of the votes cast for candidates for any statewide office or for or against any measure voted on statewide. The request shall specify in which county or counties the recount is sought and shall specify on behalf of which candidate, slate of electors, or position on a measure (affirmative or negative) it is filed. [] The Secretary of State shall forthwith send by registered mail one copy of the request to the elections official of each county in which a recount of the votes is sought. [] All the other provisions of this article shall apply to recounts conducted under this section.

15622. The request may specify the order in which the precincts shall be recounted.

15623. Any time during the conduct of a recount and for 24 hours thereafter, any other voter may request the recount of any precincts in an election for the same office, slate of presidential electors, or measure not recounted as a result of the original request.

15624. The voter filing the request seeking the recount shall, before the recount is commenced and at the beginning of each day following, deposit with the elections official a sum as required by the elections official to cover the cost of the recount for that day. [] The money deposited shall be returned to the depositor if, upon completion of the recount, the candidate, slate of presidential electors, or the position on the measure (affirmative or negative) for which the declaration is filed is found to have received the plurality of votes cast which it had not received according to the official canvass or, in an election where there are two or more candidates, the recount results in the candidate for whom the recount was requested appearing on the ballot in a subsequent runoff election or general election who would not have so appeared in the absence of the recount. The depositor shall be entitled to the return of any money deposited in excess of the cost of the recount if the candidate, slate, or position on the measure has not received the plurality of the votes cast or, in an election where there are two or more candidates, the recount does not

result in the candidate for whom the recount was requested appearing on the ballot in a subsequent runoff or general election as a result of the recount. Money not required to be refunded shall be deposited in the appropriate public treasury.

15625. The recount shall be conducted under the supervision of the elections official by special recount boards consisting of four voters of the county appointed by the elections official. Each member of a recount board shall receive the same compensation per day as is paid in the jurisdiction within which the recount is being conducted to members of precinct boards, other than inspectors, to be paid out of the appropriate public treasury. [] If the office of the elections official is the subject of the recount, the governing body shall appoint an officer, other than the elections official, to appoint and supervise the special recount boards.
15626. The recount shall be commenced not more than seven days following the receipt by the elections official of the request for the recount under Section 15620 or 15621, and shall be continued daily, Saturdays, Sundays, and holidays excepted, for not less than six hours each day until completed. The recount shall not be commenced until the first day following notification of the individuals specified in Section 15628.
15627. (a) If in the election which is to be recounted the votes were recorded by means of a punch card voting system or by electronic or electromechanical vote tabulating devices, the voter who files the declaration requesting the recount may select whether the recount shall be conducted manually, or by means of the voting system used originally, or both. (b) For purposes of direct recording electronic voting systems, "conducted manually" means that either the paper record copies or the voter verified paper audit trail of the electronically recorded vote are counted manually, as selected by the voter who requests the recount.
15628. Not less than one day prior to commencement of the recount, the elections official shall post a notice as to the date and place of the recount and shall notify the following persons of it in person or by any federally regulated overnight mail service: (a) All candidates for any office the votes for which are to be recounted. (b) Authorized representatives of presidential candidates to whom electors are pledged if the votes to be recounted were cast for presidential electors. (c) Proponents of any initiative or referendum or persons filing ballot arguments for or against any initiative, referendum, or measure placed on the ballot by the governing body the votes for which are to be recounted. (d) The Secretary of State in the case of a recount of the votes cast for candidates for any state office, presidential electors, the House of Representatives of the United States, the Senate of the United States, or delegates to a national convention or on any state measure.
15629. The recount shall be conducted publicly.
15630. All ballots, whether voted or not, and any other relevant material, may be examined as part of any recount if the voter filing the declaration requesting the recount so requests. [] No examination of any ballot shall include touching or handling the ballot without the express consent of the elections official or the election officer supervising the special recount board. No ballot may be touched or handled during the examination unless the elections official or the elections officer supervising the special recount is present to observe the examination. [] Except as provided in this section no ballot shall be touched or handled by any person during the recount unless that person is the elections official, a person acting at the direction of the elections official, a member of the special recount board, or by order of the superior court.
15631. On recount, ballots may be challenged for incompleteness, ambiguity, or other defects, in accordance with the following procedure: (a) The person challenging the ballot shall state the reason for the challenge. (b) The official counting the ballot shall count it as he or she believes proper and then set it aside with a notation as to how it was counted. (c) The

elections official shall, before the recount is completed, determine whether the challenge is to be allowed. The decision of the elections official is final.

15632. In lieu of the returns as reported in the official canvass, upon completion of the recount showing that a different candidate was nominated or elected, that a different presidential slate of electors received a plurality of the votes, or that a measure was defeated instead of approved or approved instead of defeated, there shall be entered the result of the recount in each precinct affected, which result shall, for all purposes thereafter, be the official returns of those precincts for the office, slates of presidential electors, or measure involved in the recount. If the office, slates of presidential electors, or measure are not voted on statewide, the results of any recount which is not completed by counting the votes in each and every precinct in the jurisdiction within which votes were cast on the candidates for the office, on the slates of electors, or on the measure in question shall be declared null and void. If the office, slates of presidential electors, or measure are voted on statewide, the results of any recount will be declared null and void where there is not recounted each vote cast for the office, slates, or measure in any county specified in the request for recount filed with the Secretary of State.
15633. A copy of the results of any recount conducted pursuant to this chapter shall be posted conspicuously in the office of the elections official.

Public Records Act Provisions

Citations are to California Government Code, see GC 6250 et seq.

6250. [The Legislature, mindful of the right of individual privacy, finds and declares that access to information about the conduct of the people's business is a fundamental and necessary right of every person]
6251. This chapter shall be known and may be cited as the California Public Records Act.
6252. As used in this chapter: (a) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952. (b) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment. (c) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association. (d) "Public agency" means any state or local agency. (e) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975. (f) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution. (g) "Writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.
6253. [Public records are open to inspection, unless exempt from disclosure, at all times during the agency's office hours, and the agency shall promptly determine if the records are disclosable and available, and produce a copy upon payment of the appropriate fee, if applicable.]

- 6253.1. [When a request is made, the agency shall assist the requester in making a focused and effective request that reasonably describes an identifiable record or records, describe where the records exist ,and provide suggestions for overcoming practical obstacles to accessing them.]
- 6253.4. [Agency may adopt regulations stating the procedures for making its records available, consistent with the purposes of the Act.]
- 6253.5. Notwithstanding Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county elections officials in the examination of the petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions or who are responsible for the preparation of that memoranda and, if the petition is found to be insufficient, by the proponents of the petition and the representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefore. However, the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine the material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, the examination shall commence not later than 21 days after certification of insufficiency. (a) As used in this section, "petition" shall mean any petition to which a registered voter has affixed his or her signature. (b) As used in this section "proponents of the petition" means the following: (1) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he or she prepare a title and summary of the chief purpose and points of the proposed measure; (2) For other initiative and referenda on measures, the person or persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the elections official; (3) For recall measures, the person or persons defined in Section 343 of the Elections Code; (4) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools; (5) For petitions circulated pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, the person or persons designated as chief petitioners under Section 35701 of the Education Code; (6) For petitions circulated pursuant to Part 4 (commencing with Section 74000) of the Education Code, the person or persons designated as chief petitioners under Sections 74102, 74133, and 74152 of the Education Code.

- 6253.6.(a) Notwithstanding the provisions of Sections 6252 and 6253, information compiled by public officers or public employees revealing the identity of persons who have requested bilingual ballots or ballot pamphlets, made in accordance with any federal or state law, or other data that would reveal the identity of the requester, shall not be deemed to be public records and shall not be provided to any person other than public officers or public employees who are responsible for receiving those requests and processing the same. (b) Nothing contained in subdivision (a) shall be construed as prohibiting any person who is otherwise authorized by law from examining election materials, including, but not limited

to, affidavits of registration, provided that requests for bilingual ballots or ballot pamphlets shall be subject to the restrictions contained in subdivision (a).

6253.9. [Provisions for the production of information in an electronic format]

Federal Laws

Americans with Disabilities Act of 1990 [42 USC 12101, et seq.]

(Popular name: ADA.) To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such impairment. Title II of the Act provides protections in the state and local government activities.

Help America Vote Act of 2002 [42 USC 15301 et seq.]

(Popular name: HAVA.) The most sweeping electoral reform since the Voting Rights Act of 1965. Key provisions: (1) new voting system standards and funding to acquire new voting systems that enable every voter to vote independently and privately, to review and correct and verify their ballots before casting them.; (2) allow voters to cast a provisional ballot at the polling place even when there is some doubt about eligibility; (3) requires verification of identity when registering to vote for the first time; (4) facilitates voting by military and overseas voters; (5) facilitates the filing of complaints by voters; and (6) creates Elections Assistance Committee to oversee and study election processes.

Voting Accessibility for the Elderly and Handicapped Act of 1984 [42 USC 1973ee]

Generally requires polling places to be physically accessible to people with disabilities for federal elections. Where no accessible location is available to serve as a polling place, a political subdivision must provide an alternate means of casting a ballot on the day of the election. This law also requires states to make available registration and voting aids for disabled and elderly voters, including information by telecommunications devices for the deaf (TDDs) which are also known as teletypewriters (TTYs).

Voting Rights Act of 1965 [42 USC 1971 et seq.]

Language Minority Groups (LMGs). See §4(f)(4) and §203; interpretations and guidelines are provided in the Code of Federal Regulations (7/1/99 version, Title 28, Chapter I, Part 55, §§55.1-55.24). The minority language provisions were added to the Act in 1975, and San Mateo County became a covered jurisdiction under §203(c) pursuant to the July 2002 publication of Census Bureau statistics (67 Fed. Reg. 144, 48871). The language provisions require San Mateo County to provide election materials and activities in English, Chinese and Spanish, in any type of election. Covered activities are defined as "any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots[.]" The basic purpose is to allow members of the LMGs to be effectively informed of and participate effectively in voting-connected activities.

Federal monitoring of polling places upon court order for the purpose of observing whether persons who are entitled to vote are being permitted to vote. [42 USC 1973a(a) and 1973f]

National Voter Registration Act of 1993 [42 USC 1973gg et seq.]

(Popular names: Motor Voter Law; NVRA.) The purpose of the Act is to make it easier for all Americans to register to vote and to maintain their registration. It provides for voter registration services while applying for a driver's license, while applying for general assistance or for state-funded public services for the disabled, or by using mail-in forms in a state-approved format. The Act also requires elections officials to take specified steps to maintain up-to-date voter registration database and to notify voters of their registration status

Appendix D
VOTER'S BILL OF RIGHTS

Provided by the SOS, per HAVA. [EC 14105.3]

1. You have the right to cast a ballot if you are a valid registered voter (a US citizen who is a resident in this state, at least 18 years of age and not in prison or on parole for conviction of a felony, and registered to vote at his or her current residence address).
2. You have the right to cast a provisional ballot if your name is not listed on the voting rolls.
3. You have the right to cast a ballot if you are present and in line at the polling place prior to the close of the polls.
4. You have the right to cast a secret ballot free from intimidation.
5. You have the right to receive a new ballot if, prior to casting your ballot, you believe you made a mistake. If at any time before you finally cast your ballot, you feel you have made a mistake, you have the right to exchange the spoiled ballot for a new ballot. VBM voters may also request and receive a new ballot if they return their spoiled ballot to an elections official prior to the closing of the polls on Election Day.
6. You have the right to receive assistance in casting your ballot, if unable to vote without assistance.
7. You have the right to return a completed VBM ballot to any precinct in the county.
8. You have the right to election materials in another language, if there are sufficient residents in your precinct to warrant production.
9. You have the right to ask questions about election procedures and observe the elections process. You have the right to ask questions of the precinct board and election officials regarding election procedures and to receive an answer or be directed to the appropriate official for an answer. However, if persistent questioning disrupts the execution of their duties, the board or election officials may discontinue responding to questions.
10. You have the right to report any illegal or fraudulent activity to a local elections official or to the Secretary of State's Office.

If you believe you have been denied any of these rights, or you are aware of any election fraud or misconduct, please call the Secretary of State's confidential toll-free Voter Protection Hotline at 1-800-345-VOTE (8683).

Information on your voter registration affidavit will be used by elections officials to send you official information on the voting process, such as the location of your polling place and the issues and candidates that will appear on the ballot. Commercial use of voter registration information is prohibited by law and is a misdemeanor. Voter information may be provided to a candidate for office, a ballot measure committee, or other person for election, scholarly, journalistic, political, or governmental purposes, as determined by the Secretary of State. Driver's license and social security numbers, or your signature as shown on your voter registration card, cannot be released for these purposes. If you have any questions about the use of voter information or wish to report suspected misuse of such information, please call the Secretary of State's Voter Protection and Assistance Hotline at 1-800-345-VOTE. Certain voters facing life-threatening situations may qualify for confidential voter status. For more information, contact the Secretary of State's Safe at Home program or web site at: www.sos.ca.gov. [EC 2300]